

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 777

Session of
1985

INTRODUCED BY GEORGE, HAYES, HASAY, SCHEETZ, WASS, REBER,
SAURMAN, LEVDANSKY, STEWART, WOZNIAK, FREEMAN, McHALE,
WAMBACH, RYBAK, STEIGHNER, BELARDI, JAROLIN, CAWLEY, COY,
COLE, DAVIES, LETTERMAN, McCALL, STABACK, DOMBROWSKI, VEON,
MORRIS, SALOOM, LUCYK, PRATT, E. Z. TAYLOR, PUNT, FOX,
ARGALL, GRUPPO, LLOYD, GRUITZA AND BATTISTO, APRIL 9, 1985

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 9, 1985

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An
2 act providing for the planning and regulation of solid waste
3 storage, collection, transportation, processing, treatment,
4 and disposal; requiring municipalities to submit plans for
5 municipal waste management systems in their jurisdictions;
6 authorizing grants to municipalities; providing regulation of
7 the management of municipal, residual and hazardous waste;
8 requiring permits for operating hazardous waste and solid
9 waste storage, processing, treatment, and disposal
10 facilities; and licenses for transportation of hazardous
11 waste; imposing duties on persons and municipalities;
12 granting powers to municipalities; authorizing the
13 Environmental Quality Board and the Department of
14 Environmental Resources to adopt rules, regulations,
15 standards and procedures; granting powers to and imposing
16 duties upon county health departments; providing remedies;
17 prescribing penalties; and establishing a fund," further
18 providing for the approval of permits and licenses and for
19 the power and duties of municipalities.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The act of July 7, 1980 (P.L.380, No.97), known
23 as the Solid Waste Management Act, is amended by adding a
24 section to read:

1 Section 106.1. Powers and duties of host municipalities and
2 counties.

3 The host municipality or the county wherein the host
4 municipality is located shall have the power to make inspections
5 or investigations of any property, building, premises or place
6 where solid waste is stored, processed, treated or disposed of
7 and shall be entitled to access to, and require the production
8 of, books and papers, documents and physical evidence pertinent
9 to any matter relative to such solid waste.

10 Section 2. Section 502(b) of the act is amended to read:
11 Section 502. Permit and license application requirements.

12 * * *

13 (b) The application for a permit to operate a hazardous
14 waste storage, treatment or disposal facility shall also be
15 accompanied by a form, prepared and furnished by the department,
16 containing the written consent of the landowner to entry upon
17 any land to be affected by the proposed facility by the
18 Commonwealth, the host municipality or the county wherein the
19 host municipality is located and by any of [its] their
20 authorized agents prior to and during operation of the facility
21 and for 20 years after closure of the facility, for the purpose
22 of inspection and for the purpose of any such pollution
23 abatement or pollution prevention activities as the department
24 deems necessary. Such forms shall be deemed to be recordable
25 documents and prior to the initiation of operations under the
26 permit, such forms shall be recorded and entered into the deed
27 book (d.b.v.) indexing system at the office of the recorder of
28 deeds in the counties in which the area to be affected under the
29 permit is situated.

30 * * *

1 Section 3. Section 503 of the act is amended by adding a
2 subsection to read:

3 Section 503. Granting, denying, renewing, modifying, revoking
4 and suspending permits and licenses.

5 * * *

6 (f) Every permit or license and any modification or renewal
7 thereof shall be issued and the continued use of any existing
8 permit or license shall be upon the condition that the permittee
9 or licensee complies with the provisions of section 608 of this
10 act. Failure to comply with such provisions shall cause the
11 permit or license to be revoked.

12 Section 4. Sections 608 and 609 of the act are amended to
13 read:

14 Section 608. Production of materials; recordkeeping
15 requirements; rights of entry.

16 (a) The department and its agents and employees shall:

17 (1) Have access to, and require the production of, books
18 and papers, documents, and physical evidence pertinent to any
19 matter under investigation.

20 (2) Require any person or municipality engaged in the
21 storage, transportation, processing, treatment or disposal of
22 any solid waste to establish and maintain such records and
23 make such reports and furnish such information as the
24 department may prescribe.

25 (3) Enter any building, property, premises or place
26 where solid waste is generated, stored, processed, treated or
27 disposed of for the purposes of making such investigation or
28 inspection as may be necessary to ascertain the compliance or
29 noncompliance by any person or municipality with the
30 provisions of this act and the rules or regulations

1 promulgated hereunder. In connection with such inspection or
2 investigation, samples may be taken of any solid, semisolid,
3 liquid or contained gaseous material for analysis. If any
4 analysis is made of such samples, a copy of the results of
5 the analysis shall be furnished within five business days to
6 the person having apparent authority over the building,
7 property, premises or place.

8 (b) The host municipality, the county wherein the host
9 municipality is located and the designated agents and employees
10 of such municipality or county may:

11 (1) Have access to, and require the production of, books
12 and papers, documents, and physical evidence pertinent to any
13 matter under investigation.

14 (2) Enter any building, property, premises or place
15 where solid waste is stored, processed, treated or disposed
16 of for the purposes of making such investigation or
17 inspection as may be necessary to ascertain the compliance or
18 noncompliance by any person or municipality with the
19 provisions of this act and the rules or regulations
20 promulgated hereunder. In connection with such inspection or
21 investigation, samples may be taken of any solid, semisolid,
22 liquid or contained gaseous material for analysis. If any
23 analysis is made of such samples, a copy of the results of
24 the analysis shall be furnished within five business days to
25 the person having apparent authority over the building,
26 property, premises or place.

27 Section 609. Search warrants.

28 An agent or employee of the department or a designated agent
29 or employee of the host municipality or county may apply for a
30 search warrant to any Commonwealth official authorized to issue

1 a search warrant for the purposes of inspecting or examining any
2 property, building, premise, place, book, record or other
3 physical evidence, of conducting tests, or of taking samples of
4 any solid waste. Such warrant shall be issued upon probable
5 cause. It shall be sufficient probable cause to show any of the
6 following:

7 (1) that the inspection, examination, test, or sampling
8 is pursuant to a general administrative plan to determine
9 compliance with this act;

10 (2) that the agent or employee has reason to believe
11 that a violation of this act has occurred or may occur; or

12 (3) that the agent or employee has been refused access
13 to the property, building, premise, place, book, record or
14 physical evidence, or has been prevented from conducting
15 tests or taking samples.

16 Section 5. This act shall take effect in 60 days.